

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company  
to Revise its Gas Rates and Tariffs to be Effective  
July 1, 2005.

(U 39 G)

Application 04-07-044  
(Filed July 30, 2004)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE  
LAW JUDGE'S RULING AND SCOPING MEMO**

This ruling and scoping memo sets forth the scope, process, and schedule for this proceeding, following a prehearing conference before Commissioner Geoffrey Brown and Administrative Law Judge (ALJ) Malcolm held on September 16, 2004.

**1. Background**

PG&E filed this "Biennial Cost Allocation Proceeding" (BCAP) application on July 30 2004 seeking changes in rates, revenue allocations, and rate design for natural gas sales and services. PG&E proposes a revenue increase of \$12.8 million which it proposes to include in rates on July 1, 2005. Decision (D.) 01-11-001 was PG&E's last BCAP decision for rate changes that became effective January 1, 2002. Although the Commission has normally processed BCAPs every two years, PG&E explains it delayed filing this application because of intervening events, including the energy crisis and PG&E's bankruptcy proceeding in federal court.

Three parties filed formal protests to this application: the Commission's Office of Ratepayer Advocates (ORA), The Utility Reform Network (TURN), and

the California Cogeneration Council (CCC). Their protests address issues that are within the scope of PG&E's application.

## **2. Proceeding Issues**

The issues raised in the application are those that will be considered within the scope of the proceeding. PG&E's application identifies them generally as:

- Gas throughput forecasts for core and noncore customers;
- Marginal distribution and customers costs;
- Revenue requirement for gas costs, including special programs;
- Revenue allocation and rate design.

## **3. Procedural Schedule**

Consistent with the discussion at the prehearing conference, the procedural schedule in this proceeding at this time is as follows:

Service of ORA testimony	December 10, 2004
Service of intervenor testimony	January 11, 2005
Service of rebuttal testimony	January 28, 2005
Evidentiary hearings	February 10-16, 2005
Opening Briefs	February 20, 2005
Reply Briefs (submission of proceeding)	March 8, 2005
Proposed Decision	April, 2005

Hearings will be conducted in San Francisco at Commission headquarters.

The Commission expects this proceeding to be completed no later than 18 months from the date of this scoping memo.

## **4. Motion for Protective Order**

PG&E filed a motion for protective order with its application, which would set forth the conditions under which the parties may obtain access to the

proprietary computer models and input data set formats used by PG&E in support of its testimony. It attaches a proposed protective order to its motion, which it states would protect trade secrets while providing parties access to essential information and data in this application. No party objected to PG&E's motion.

This ruling grants PG&E's motion. The protective order is issued concurrent with this ruling and scoping memo.

**5. Procedure for Requesting Final Oral Argument**

Parties may present final oral argument before a quorum of the Commission in this proceeding if a party makes a timely request. Any party who seeks final oral argument must file a motion in this proceeding no later than five days following issuance of the ALJs' proposed decision in this case.

**6. Category of Proceeding**

The Commission preliminarily determined that this is a ratesetting proceeding for which hearings may be required. No party has objected to this determination. This ruling confirms that the proceeding is ratesetting and that hearings are required.

**7. Principal Hearing Officer**

ALJ Kim Malcolm is the principal hearing officer in this proceeding.

**8. Service List**

The service list for this proceeding is located at the Commission's Website ([www.cpuc.ca.gov](http://www.cpuc.ca.gov)). Those who are not already parties, but who wish to participate in this proceeding as full parties must make their request by written motion to intervene, or orally on the record during the proceeding. Those not already participating, but who wish to do so as nonparties, may request that their

names be added to the service list (in the “information only” or “state service” category) by sending an e-mail note to ALJ Malcolm (kim@cpuc.ca.gov).

The Commission will follow the electronic service protocols attached to this ruling.

## **9. Intervenor Compensation**

Parties who wish to file notices of intent to claim compensation in this proceeding must do so no later than October 16, 2004, and following the guidance in Article 18.8 of the Commission’s Rules of Practice and Procedure (Rules). For more information about the Commission’s intervenor compensation program or other Commission rules and procedures, parties should contact the Public Advisor’s Office at 1-866-8498391 or public.advisor.la@cpuc.ca.gov.

## **10. Rules Governing Ex Parte Communications**

This proceeding is subject to Pub. Util. Code § 1701.3(c), which means that ex parte communications are prohibited unless certain statutory requirements are met (see also, Rule 7(c).) An ex parte communication is defined as “any oral or written communication between a decisionmaker and a person with an interest in a matter before the Commission concerning substantive, but not procedural issues, that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter.” (Pub. Util. Code § 1701.1(c)(4)). Commission rules further define the terms “decision maker” and “interested person” and only off-the-record communications between these two entities are “ex parte communications.”

In ratesetting proceedings such as this one, the law permits interested persons to engage in ex parte communications with decision makers if all interested parties are invited and given no less than three business days’ notice, or in the case of an individual meeting granted to any party, if all other parties are also granted individual ex parte meetings of a substantially equal period of

time. (Pub. Util. Code § 1701.3(c).) The law permits written ex parte communications provided that those who provide such communication to a decision maker must provide a copy of the communication to each party on the same day. (Pub. Util. Code § 1701.3(c); Rule 7.) Parties must report ex parte communications as specified in Rule 7.1.

**IT IS RULED** that:

1. The scope of this proceeding is set forth in this ruling.
2. The schedule for this proceeding is set forth in this ruling. The assigned Administrative Law Judges (ALJ) may revise this schedule as necessary for the fair and efficient management of the proceeding.
3. ALJ Kim Malcolm is the principal hearing officer in this proceeding.
4. PG&E's July 30, 2004 motion for a protective order is granted as set forth herein.
5. This ratesetting proceeding is subject to Pub. Util. Code § 1701.3(c), meaning that ex parte communications are prohibited unless certain statutory requirements are met. Such communications are also governed by Rule 7(c), of the Commission's Rules of Practice and Procedure (Rule) and must be reported, as provided in Rule 7.1.

Dated September 27, 2004, at San Francisco, California.

/s/ GEOFFREY F. BROWN

Geoffrey F. Brown  
Assigned Commissioner

/s/ KIM MALCOLM

Kim Malcolm  
Administrative Law Judge



## **ATTACHMENT**

### **SERVICE LIST AND ELECTRONIC SERVICE PROTOCOLS**

The service list for this proceeding is located at the Commission's website ([www.cpuc.ca.gov](http://www.cpuc.ca.gov)). Those who are not already parties, but who wish to participate in this proceeding as full parties may make a written motion to intervene or submit an appearance form at a hearing. Those who wish to be included as parties on the service list may alternatively send their requests in an e-mail note to ALJ Malcolm ([kim@cpuc.ca.gov](mailto:kim@cpuc.ca.gov)).

To reduce the burden of service in this proceeding, the Commission will use electronic service, to the extent possible using the electronic service protocols provided in this ruling.

All individuals on the service list should provide electronic mail addresses. The Commission and other parties will assume a party consents to electronic service unless the party indicates otherwise.

#### **Notice of Availability**

If a document, including attachments, exceeds 75 pages, parties may serve a Notice of Availability in lieu of all or part of the document, in accordance with Rule 2.3(c) of the Commission's Rules of Practice and Procedure.

#### **Filing of Documents**

These electronic service protocols govern service of documents only, and do not change the rules regarding the tendering of documents for filing. Documents for filing must be tendered in paper form, as described in Rule 2, et seq., of the Commission's Rules of Practice and Procedure.

## **Electronic Service Standards**

As an aid to review of documents served electronically, appearances should follow these procedures:

1. Merge into a single electronic file the entire document to be served (e.g., title page, table of contents, text, attachments, service list).
2. Attach the document file to an electronic note.
3. In the subject line of the note, identify the proceeding number; the party sending the document; and the abbreviated title of the document.
4. Within the body of the note, identify the word processing program used to create the document if anything other than Microsoft Word. (Commission experience is that most recipients can readily open documents sent in Microsoft Word 6.0/95.)

If the electronic mail is returned to the sender, or the recipient informs the sender of an inability to open the document, the sender shall immediately arrange for alternative service (regular U.S. mail shall be the default, unless another means—such as overnight delivery—is mutually agreed upon).

Parties should exercise good judgment regarding electronic mail service, and moderate the burden of paper management for recipients. For example, if a particularly complex matrix or cost-effectiveness study with complex tables is an attachment within a document mailed electronically, and it can be reasonably foreseen that most parties will have difficulty printing the matrix or tables, the sender should also serve paper copies by U.S. mail, and indicate that in the electronic note.

## **Obtaining Up-to-Date Electronic Mail Addresses**

The current service lists for active proceedings are available on the Commission's web page, [www.cpuc.ca.gov](http://www.cpuc.ca.gov). To obtain an up-to-date service list of electronic mail addresses:

- On the "Legal Documents" bar choose "Service Lists."



- Scroll through the “Index of Service Lists” to the number for this proceeding (or click “edit,” “find,” type in R0010002, and click “find next”).
- To view and copy the electronic addresses for a service list, download the comma-delimited file, and copy the column containing the electronic addresses.

The Commission’s Process Office periodically updates service lists to correct errors or to make changes at the request of parties and non-parties on the list. Parties should copy the current service list from the web page (or obtain paper copy from the Process Office) before serving a document.

### **Pagination Discrepancies in Documents Served Electronically**

Differences among word-processing software can cause pagination differences between documents served electronically and print outs of the original. (If documents are served electronically in PDF format, these differences do not occur, although PDF files can be especially difficult to print out.) For the purposes of reference and/or citation (e.g., at the Final Oral Argument, if held), parties should use the pagination found in the original document.

**(END OF ATTACHMENT)**

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Assigned Commissioner and Administrative Law Judge's Ruling and Scoping Memo on all parties of record in this proceeding or their attorneys of record.

Dated September 27, 2005, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda A. Pulmano

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.